



**BOARD OF APPEALS**  
Diane R. Gordon, Co-Chair  
Harry Miller, Co-Chair  
Bailey S. Silbert

# *Town of Brookline*

## *Massachusetts*

Town Hall, 1<sup>st</sup> Floor  
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Brookline, MA 02445-6899  
(617) 730-2210 Fax (617) 730-2248  
Patrick J. Ward, Secretary

### **TOWN OF BROOKLINE BOARD OF APPEALS CASE NO. 060071**

Petitioner, George Fishman, applied to the Building Commissioner for permission to construct a one-story addition to the rear of his dwelling. The application was denied and an appeal was taken to this Board.

On November 16, 2006, the Board met and determined that the properties affected were those shown on a schedule in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals and originally fixed January 4, 2007, at 7:00 p.m., as the time and place of a hearing on the appeal in the Selectmen's Conference room on the sixth floor of the Town Hall. Notice of the scheduled hearing was mailed to the Petitioner, to his attorney (if any of record), to the owners of the properties deemed by the Board to be affected as they appeared on the most recent local tax list, to the Planning Board and to all others required by law. Notice of the hearing was published December 14 and 21, 2006, in the Brookline Tab, a newspaper published in Brookline. Copy of said notice is as follows:

#### **NOTICE OF HEARING**

**Pursuant to M.G.L. C. 39, sections 23A & 23B, the Board of Appeals will conduct a public hearing to discuss the following case:**

Petitioner: **FISHMAN, GEORGE & ELLEN**

Location of Premises: **245 WOLCOTT RD BRKL**

Date of Hearing: **01/04/2007**

Time of Hearing: **7:00 p.m.**

Place of Hearing: **Selectmen's Conference Room, 6<sup>th</sup>. Floor**

A public hearing will be held for a variance and/or special permit from:

- 1) **5.43; Exceptions to Yard and Setback Regulations, Special Permit Required**
- 2) **5.60; Side Yard Requirements Variance Required**
- 3) **8.02.2; Alteration or Extension, Special Permit Required; of the Zoning By-Law to build a room addition to the rear of 245 WOLCOTT RD BRKL.**

Said Premise located in a **S-10** district.

*The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals who need auxiliary aids for effective communication in programs and services of the Town of Brookline are invited to make their needs known to the ADA Coordinator, Stephen Bressler, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2330; TDD (617) 730-2327.*

**Diane R. Gordon**

**Harry Miller**

**Bailey Silbert**

At the time and place specified in the notice, this Board held a public hearing.

Although the case was called, the Board heard no testimony and continued the case to Thursday, January 11, 2007 at 7:00 p.m. Present at the continued hearing was Chair, Enid Starr and Board members Lawrence Kaplan and Bailey Silbert.

The homeowner, George Fishman presented the case to the Board. Mr. Fishman stated that although the house was built in 1930, no alterations have ever been undertaken on the structure and it was in need of upgrading. The owners wish to remodel the kitchen but given the design of the room and its size it will not accommodate a modern facility. They propose to push out the back wall 4'6" and approximately 9' wide. The addition would only be one story with a shed style roof, it is an extension of an existing bump-out. Mr. Fishman stated that they also wish to add a deck 4' deep across the width of the



addition. He stated that because of the proximity to the side lot line and because he was changing a non-conformity, he needed relief. Mr. Fishman said that they talked with their neighbors on either side and across the street and they all were in support of the plan. Mr. Fishman submitted four letters of support to the Board. Mrs. Fishman stated that they planned on landscape upgrades, mostly in the form of plantings for the required counterbalancing amenities.

The Chair asked whether anyone wished to speak in favor or in opposition to the proposal and no one rose to speak.

Adam Serafin, Planner, reviewed the Planning Board report. He stated that the Planning Board had no objection to the project. That the addition is modest, adds a small amount of floor area, would not be easily seen from the street and therefore should have little impact on the neighboring properties. Mr. Serafin outlined the required relief as follows:

**Section 5.60 – Side Yard Requirements**

	<b><u>Required</u></b>	<b><u>Existing</u></b>	<b><u>Proposed</u></b>	<b><u>Finding</u></b>
Side Yard Setback	10'	7.2' – 8.6	6.7' – 8.6	Special Permit*/Variance

\* Under Section 5.43, the Board of Appeals may waive the yard and setback requirements if counterbalancing amenities are provided.

**Section 8.02.2 – Alteration or Extension**

A special permit is required to alter or enlarge any pre-existing non-conforming structure.

Mr. Serafin stated that the Planning Board recommended approval of the proposal and plans prepared by Afab Enterprises and last dated 10-05-06, subject to the following conditions:

- 1) **Prior to the issuance of a building permit, a final landscaping plan, showing all counterbalancing amenities, shall be submitted for the review and approval of the Assistant Director for Regulatory Planning.**
- 2) **Prior to the issuance of a building permit, the applicant shall submit to the Zoning Administrator for review and approval for conformance to the Board of Appeals decision: 1) a final site plan, stamped and signed by a registered**

**engineer or land surveyor; 2) building elevations, stamped and signed by a registered architect or engineer; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.**

The Chair then called on Mr. Frank Hitchcock to deliver the report for the Building Department. Mr. Hitchcock stated that this was a small addition requiring relief in the form of two Special Permits, § 5.60 for side yard relief and § 8.02.2, alteration or extension of a pre-existing, non-conforming structure. He stated that the Building Department had no objection to the proposal, the relief required or the conditions recommended by the Planning Board.

The Board, having deliberated on this matter and having considered the foregoing testimony, concludes that it is desirable to grant the relief requested under **Sections 5.60 and 8.02.2** of the Zoning Bylaw and makes the following findings pursuant to **Section 9.05:**

- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

Accordingly the Board voted unanimously to grant the requested relief subject to the following conditions:

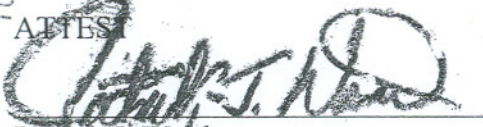
- 1) Prior to the issuance of a building permit, a final landscaping plan, showing all counterbalancing amenities, shall be submitted for the review and approval of the Assistant Director for Regulatory Planning.**
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Unanimous Decision of  
The Board of Appeals

  
Enid Starr

Filing Date: December 19, 2007

RECEIVED  
TOWN OF BROOKFIELD  
TOWN CLERK  
JUN 19 A 8 44  
A True Copy  
ATTEST

  
Patrick J. Ward  
Clerk, Board of Appeals